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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,858	03/30/2004	Susanne A. Paul	SIL.P0075	3449

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EXAMINER	
SHINGLETON, MICHAEL B	
ART UNIT	**PAPER NUMBER**
2817	

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/812,853	PAUL ET AL	
	Examiner	Art Unit	
	Michael B. Shingleton	2817	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08-09-2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *47-66* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *47-66* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Applicant states that "An IDS will be following this amendment" in the response dated 8-9-2005. However, no response filed after the 8-9-2005 response is in the file at the time of this Office Action.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 47-80 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 47-85 of copending Application No. 10/813,566. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the '566 application has all the details of the '858 application except for that noted below. This includes, for example, the coupling of one or more pairs of switching devices between a voltage differential (Note the '566 application recites the providing of first and second switching devices with a voltage differential being applied between the first terminals of the two switching devices.). It is noted that the '858 application recites a method but the method steps are a part of the claime structure of the '566 application and are not separable. In other words, for example, having an inductance coupled between the first and second switching devices does provide for the method step of "providing an inductance between...". Claims of the '858 application also clearly provides the additional limitation of "limiting the maximum voltage imposed across the switching devices" that is not specifically mentioned in the claims of the '566 application. This does not present a patentable distinction over the claims of the '566 application for all switching device amplifiers requires a power supply to be connected there across even though it might not be claimed and as with any power supply, the power supply can only provide a certain maximum voltage. In other words the voltage supplied by a real world power supply is not

infinite but is limited. Thus there is a maximum voltage imposed across the switching devices of the '566 claimed invention. Also note that the inductance is a load that is coupled to the first node in the '566 application and the use of two capacitances coupled to each end of the inductance is a common practice with inductors so as to filter out noise components. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide such capacitors since the examiner take official notice of the well known use of capacitors positioned at the ends of an inductance to filter out noise components . The claims of the '566 application are unclear which transistor is p and which is n, however, it has to be one or the other with CMOS and thus if the limitation of claim 67 does not apply it would be an obvious variant. Also the claims of the '566 application are unclear which transistor is p and which is n, however, one of these claims 79 or 80 of the '858 application would apply with the other being an obvious variant. In other words if the CMOS was arrangement had the first transistor being n and the second being p, the other CMOS arrangement of having the first transistor being p and the second being n would be an art recognized equivalent structure although the supply potentials would have to be reversed in order for the device to function proper which would be within routine skill. This is akin to forming the same circuit with npn's as compared to pnp's. It would be within the level of routine skill to select the proper biasing points etc.. Also note that a transistor has at least two terminals and the CMOS nature cause the load to be alternately driven.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 47-49, 51-55, 57-63, 65, and 67-80 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 47-66 of copending Application No. 10/812,853. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the '853 application has all the details of the '858 application except for that noted below. This includes, for example, the coupling of one or more pairs of switching devices between a voltage differential (Note the '853 application recites the providing of first and second switching devices with a voltage differential being applied between the first terminals of the two switching devices). It is noted that the '858 application recites a method but the method steps are a part of the structure of the '853 application. In other words, for example, having an inductance coupled between the first and second switching devices does provide for the method step of "providing an inductance between...". Claims of the '858 application also clearly provides the additional limitation of "limiting the maximum voltage imposed across the switching devices" that is not specifically mentioned in the claims of the '853 application. This does not present a patentable distinction over the claims of the

'853 application for all switching device amplifiers requires a power supply to be connected there across even though it might not be claimed and as with any power supply, the power supply can only provide a certain maximum voltage. In other words the voltage supplied by a real world power supply is not infinite but is limited. Thus there is a maximum voltage imposed across the switching devices of the '853 claimed invention. Also note that the inductance is a load that is coupled to the first node in the '853 application. The claims 65 and 66 of the '853 application recites both possibilities for the conductivity of the first and second transistors (switching devices). Also note that a transistor has at least two terminals. Also note that the inductor structure of the '853 application is a load.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 63-66 and 68 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17-25 of U.S. Patent No. 6,549,071. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the '071 patent has all the details of the '858 application. The '071 Patent includes further limitations like a clocks and thus the scope of the claims in question are not exactly the same. In other words the claims of the instant application '858 are broader in scope than the claims of the '071 Patent and accordingly the claims of the instant application would provide a coverage overlap of that of the claimed invention in the '071 Patent. This does not present for a patentable distinction over the claims of the '488 Patent. Also see In re Berg, 46 USPQ 2d 1226 (Fed. Cir. 1998).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael B. Shingleton whose telephone number is (571) 272-1770.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pascal, can be reached on (571)272-1769. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 and after July 15, 2005 the fax number will be 571-273-8300. Note that old fax number (703-872-9306) will be service until September 15, 2005.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MBS
October 22, 2005

Michael B Shingleton
Primary Examiner
Group Art Unit 2817